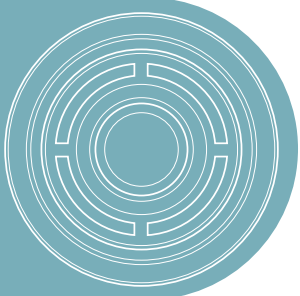




**EQUALITY AND DIVERSITY WITHIN
THE CRIMINAL JUSTICE SYSTEM:
AN INSPECTION OF THE
IMPLEMENTATION OF SECTION 75 (1)
OF THE NORTHERN IRELAND ACT 1998**

September 2018





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ACT 1998

Laid before the Northern Ireland Assembly under Section 49(2) of the Justice (Northern Ireland) Act 2002 (as amended by paragraph 7(2) of Schedule 13 to The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010) by the Department of Justice.

September 2018





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List of abbreviations

- s.75** Section 75(1) of the Northern Ireland Act 1998
- CJI** Criminal Justice Inspection Northern Ireland
- CRN** Community Resolution Notice
- DoJ** Department of Justice
- E and D** Equality and Diversity
- EAP** Equality Action Plan
- ECNI** Equality Commission for Northern Ireland
- ETBB** Equal Treatment Benchbook
- FPN** Fixed Penalty Notice
- JJC** Woodlands Juvenile Justice Centre
- LGBT** Lesbian, Gay, Bi-sexual and Transgender
- NGO** Non-Governmental Organisations
- NICS** Northern Ireland Civil Service
- NICTS** Northern Ireland Courts and Tribunals Service
- NIPS** Northern Ireland Prison Service
- OPONI** Office of the Police Ombudsman for Northern Ireland
- PBNI** Probation Board for Northern Ireland
- PECCS** Prisoner Escort and Court Custody Service
- PfG** Programme for Government
- PPDG** Police Powers Delivery Group
- PPS** Public Prosecution Service for Northern Ireland
- PREPS** Progressive Regime and Earned Privileges Scheme (in NIPS)
- PRT** Prison Review Team
- PSNI** Police Service of Northern Ireland
- PTR** Part Time Reserve
- VES** Voluntary Exit Scheme
- YE** Youth Engagement
- YJA** Youth Justice Agency



Chief Inspector's Foreword

Understanding and embracing difference has been a key challenge for both our society and the criminal justice system in Northern Ireland as it seeks to deliver an even-handed approach towards everyone. The criminal justice agencies are responding to the challenges of post-conflict, but it is still a divided society and the changing demographics of our communities are influenced by global economics and migration.

Section 75(1) (S.75) of the Northern Ireland Act 1998 set a number of statutory obligations for public authorities and the Equality Commission for Northern Ireland has dutifully managed performance through its annual reporting mechanisms. However, the broad nature of statutory compliance can often miss the nuances of operational service delivery and so the monitoring of activities and outcomes becomes more important for the criminal justice agencies.

The inspection acknowledges the progress that has been made by individual agencies and the ongoing commitment to improve organisational understanding of s.75 obligations including monitoring relevant equality activity and outcomes. However, there are significant gaps in actively monitoring the performance of the system and some outcomes need to be explained. I believe the Criminal Justice Board could play an important role in this respect by providing the leadership and strategic context within which equality and diversity work is delivered.

The report makes a small number of strategic recommendations designed to support the system-wide ownership of the issue and the sharing of knowledge and best practice to improve performance.

This inspection was conducted by Dr Roisin Devlin with the support from the wider Inspection Team.

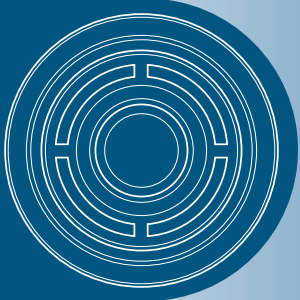
My sincere thanks to all who supported their work.

Brendan McGuigan CBE
Chief Inspector of Criminal Justice
in Northern Ireland

September 2018

Criminal Justice Inspection
Northern Ireland
a better justice system for all





Executive Summary

The Lammy Review observed that the justice system in England and Wales *...is powerful and far-reaching. It makes millions of decisions each year that influence the fate of victims, suspects, defendants and offenders.*¹ In Northern Ireland these decisions are fewer in number but they are no less powerful or far-reaching. Their legitimacy depends on trust, which is undermined if people, and the groups they identify with, have been treated inequitably. Section 75 (1) (s.75) of the Northern Ireland Act 1998 is therefore a core criminal justice tool. It is a mechanism for agencies to accommodate difference and afford particular groups an equal opportunity in their experience of criminal justice. Unlike anti-discrimination laws, it requires criminal justice to proactively assess and improve the impact of policies on the groups it identifies (as denoted by religion, political opinion, racial group, age, marital status, or sexual orientation, men and women, people with a disability and people without, and those with or without dependents).

This inspection examined the criminal justice system's implementation of s.75 (1) of the Northern Ireland Act 1998. The fieldwork was completed between March and December 2017. Among those agencies inspected, Inspectors found a tremendous amount of willingness to make s.75 work. There were

examples of crucial decision making points, notably within prison establishments, where the commitment to measure equality impacts was resolute. Nevertheless, important aspects of s.75 implementation were underdeveloped. For example, screening obligations were not always understood. Equality monitoring within most

¹ The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, September 2017, p.4. Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf.

agencies contained gaps and an approach to measure different s.75 groups' treatment through the system was not apparent. Better detection of, and explanations for, difference was desired by agencies and stakeholders alike. The coherency of s.75 governance arrangements was critical to all of the issues identified and, in this respect, Inspectors' considered that the Criminal Justice Board should undertake a greater leadership role.

Activity in respect of equality scheme review and publication signalled agencies' commitment to s.75. There was potential to enhance business plans to better align with equality action plans and the draft Programme for Government (PfG) equality outcomes. Governance structures were coherent and led by senior management in over half of the agencies considered (the Office of the Police Ombudsman for Northern Ireland (OPONI), the Police Service of Northern Ireland (PSNI), the Probation Board for Northern Ireland (PBNI), the Public Prosecution Service for Northern Ireland (PPS)), but had become weakened in respect of the Northern Ireland Courts and Tribunals Service (NICTS), the Youth Justice Agency (YJA) and the Northern Ireland Prison Service (NIPS). These agencies did not have responsibility for the development of an agency specific equality scheme or action plan and, at the time of fieldwork, s.75 resource had been reduced. Within these agencies, communication between local services and central management required improvement. The Department of Justice (DoJ), which had overarching responsibility for the equality scheme in respect of each, needed to strengthen its links with these agencies too. This was recognised and opportunities to enhance s.75 governance were being actively pursued during Inspectors' fieldwork. There was no working cross system governance mechanism for s.75. This meant there was limited understanding about the through-system journey for different equality groups. Disparities at 'the end' of the system such as the over-representation of

Catholic children in custody highlighted this necessity.

A dedicated Equality Manager role enhanced the delivery of s.75. For some of the agencies inspected, this role no longer existed or had become vacant due to the 'Voluntary Exit Scheme (VES)'. For the DoJ, the NIPS and the YJA much welcomed s.75 appointments were made during the fieldwork but a sense of criminal justice equality work 'starting over' was reported. Re-establishment of the lapsed 'criminal justice equality network' presented potential for shared learning. In the context of reduced equality resource, tailored training, as well as stakeholder and service user engagement was also especially important. Examples of good practice, for example, NIPS establishments' Equality and Diversity meetings and the NICTS court user groups were found. There was an opportunity to harness issues raised through these forums through improved ties with s.75 governance. Action planning was likewise crucial, as it provided each agency a mechanism to define equality goals specific to its functions. The ability to reflect the NIPS, the NICTS, and the YJA equality activity within an overarching DoJ action plan was, however, limited. Inspectors considered that each should work toward, and be supported to develop, agency specific action plans that could better reflect their respective s.75 activity and priorities.

Equity monitoring of key functions was required to detect differences which may have required further examination in order to explain or address. Some agencies were leading in this regard. For example, and notwithstanding some areas for development, the NIPS establishments' monitoring of discretion was the most developed and routine. Equality monitoring information was as an integral part of the PBNI Equality Impact Screening reports. The OPONI was the only agency to publish a dedicated s.75 report



about those using its services. A 'data drive' was evident within the PSNI. Successes included s.75 recording in respect of Community Resolution Notices (CRNs) and Penalty Notices for Disorder (PNDs)* but issues remained in publishing the results, which had not been possible at the time of fieldwork. There had also been efforts to examine the impact of stop and search activity in respect of children. However, for both children and members of the Travelling Community, Inspectors believed stop and search activity warranted further explanation. Workforce monitoring across all agencies examined had improved. Disparities were most marked in relation to Catholics in the NIPS and across the PSNI. Women were also underrepresented among PSNI Officers and NIPS custodial staff. This had been reported elsewhere and represented a continuing challenge.

'Screening' (assessing) policies for their potential impact on equality of opportunity was a crucial s.75 activity committed to within all equality schemes. A quality assured process that enabled corporate oversight as well as staff training was required. The PSNI 'corporate policy project' was an example of good practice from which others could learn. Screening had become problematic to at least some extent for the agencies under the DoJ's s.75 governance framework. This was most apparent in respect of the NIPS establishments where a view that policy was screened only by the DoJ was evident. Inspectors were informed that the equality impacts of policy implementation had been considered in practice. But there was no corporate process by which the NIPS or the DoJ could be assured that screening had been occurring. This was a matter of urgency, which was being addressed during Inspectors' fieldwork.

Measuring s.75 outcomes was a challenge. Some statistical information existed but it had not been collated within a criminal justice equality publication. Therefore, while different data was used to assess s.75 activity (for example, the PPS used the Northern Ireland Omnibus satisfaction surveys and its hate crime statistics, similarly the PSNI) there was no overall appraisal of equality performance. This was an important area for improvement. Stakeholders discerned important progress in agencies' openness, especially the PSNI, which many perceived had resulted at least in part from s.75. There were, many said, greater opportunities to input on policy and have their views taken on board. Although the Appropriate Adult Scheme and Hate Crime Advocacy Service were cited, most struggled to name concrete examples of outcomes attributable to s.75. This was similar for criminal justice staff. In respect of evaluating the impact of this important legislative measure, intuition rather than solid evidence often prevailed. It was Inspectors' view that setting measurable strategic s.75 objectives was an overdue criminal justice goal and, for this, greater leadership was required.


* On 08 January 2021 this was amended to read 'PND' instead of the incorrectly referenced 'FPN'.



Recommendations

Strategic recommendations

- 1** The DoJ should strengthen its s.75 oversight and governance arrangements to ensure a regular reporting structure between it and the agencies within its equality scheme. It should request that, within three months of publishing this report, the NICTS, the NIPS and the YJA improve internal s.75 governance and develop agency specific equality action plans (paragraph 2.16).
- 2** Within six months of the publication of this report, each of the agencies inspected should review their s.75 monitoring arrangements in relation to relevant functions. Actions to address gaps in s.75 monitoring and explain disparities that have been identified via existing statistics should be included within an action plan (paragraph 3.49).
- 3** Within three months of this report being published, all agencies should have in place a corporate and quality assured process by which each can be satisfied that policy and other relevant decisions are being screened for impact on equality of opportunity (paragraph 3.61).
- 4** Within six months of the publication of this report, the Criminal Justice Board should develop, and lead on the monitoring of, strategic equality goals for criminal justice. Within this timeframe, it should also establish a 'Criminal Justice Equality Network' made up of the relevant agencies with a role that includes delivering the identified strategic goals (paragraph 4.18).



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